

<p style="text-align: right;">Page 1</p> <p>1           IN THE UNITED STATES DISTRICT COURT 2           FOR THE WESTERN DISTRICT OF PENNSYLVANIA</p> <p>3   MICHAEL W. HILL, et al.,       : C.A. No. 05-160 Erie 4       Plaintiff                : C.A. No. 03-323 Erie 5                                 : C.A. No. 03-355 Erie 6       v.                         : C.A. No. 03-368 Erie 7                                 : C.A. No. 04-011 Erie 8   JOHN J. LAMANNA, et al.,     : 9       Defendants                :</p> <p>10           Deposition of DAVID G. ENGLISH, taken before 11           and by Janis L. Ferguson, Notary Public in and for 12           the Commonwealth of Pennsylvania, on Wednesday, 13           December 20, 2006, commencing at 10:00 a.m., at the 14           offices of Knox McLaughlin Gornall &amp; Sennett, PC, 15           120 West 10th Street, Erie, Pennsylvania 16501.</p> <p>16</p> <p>17   For the Plaintiffs: 18       Richard A. Lanzillo, Esquire 19       Knox McLaughlin Gornall &amp; Sennett, PC 20       120 West 10th Street 21       Erie, PA 16501</p> <p>22   For the Defendants: 23       Douglas Goldring, Esquire 24       Federal Prison Industries (UNICOR) 25       400 First Street NW           Washington, DC 20534</p> <p>          Reported by Janis L. Ferguson, RPR, CRR           Ferguson &amp; Holdnack Reporting, Inc.</p>	<p style="text-align: right;">Page 3</p> <p>1   DAVID G. ENGLISH, first having 2   been duly sworn, testified as follows:</p> <p>3</p> <p>4           DIRECT EXAMINATION</p> <p>5   BY MR. LANZILLO:</p> <p>6</p> <p>7       Q. Good morning, Mr. English. My name is Rich 8       Lanzillo, as I introduced myself a moment ago to you. I 9       represent the Plaintiffs in these related actions.</p> <p>10       We have scheduled your deposition today so that I 11       can ask you some questions primarily relating to conditions 12       as they formerly existed at the UNICOR facility at FCI 13       McKean.</p> <p>14       Before I get started with my questions, there are 15       a couple of ground rules and some background that I should 16       share with you.</p> <p>17       First, as I'm sure you're probably already aware, 18       both my questions and your answers will ultimately be 19       transcribed by Janis, our court reporter. To ensure that 20       the transcript is clear and understandable, it's important 21       that you respond to each of my questions verbally; that you 22       avoid simply shaking or nodding your head, because Janis can 23       miss that and there may not be an answer to my question.</p> <p>24       Also, I would ask you to use the words yes or no 25       when responding to a question in the affirmative or the</p>
<p style="text-align: right;">Page 2</p> <p>1           I N D E X</p> <p>2</p> <p>3   TESTIMONY OF DAVID G. ENGLISH</p> <p>4       Direct examination by Mr. Lanzillo       . . . . . 3</p> <p>5       Cross-examination by Mr. Goldring       . . . . . 55</p> <p>6       Redirect examination by Mr. Lanzillo     . . . . . 62</p> <p>7</p> <p>8</p> <p>9   EXHIBITS:</p> <p>10       English Deposition Exhibit 1 - Page 18</p> <p>11       English Deposition Exhibit 2 - Page 38</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1   negative. If you use phrases such as uh-huh or huh-uh, that 2   can be ambiguous on the record as well. Finally, and most 3   importantly, if at any time you do not hear me clearly or do 4   not understand my question, you need to tell me that so that 5   I can repeat or rephrase the question for you. If I ask a 6   question and you respond to it, I will assume that you both 7   heard it and understood it. Is that fair enough?</p> <p>8       A. Yes, it is.</p> <p>9       Q. Very good. Would you state your full name for us.</p> <p>10       A. David G. English.</p> <p>11       Q. And what is your current address, Mr. English?</p> <p>12       A. 49 Cobham Park Road. That would be C-O-B-H-A-M 13       Park Road.</p> <p>14       Q. How are you presently employed?</p> <p>15       A. (No response.)</p> <p>16       Q. Where do you work?</p> <p>17       A. I work at FCI McKean, federal prison, UNICOR.</p> <p>18       Q. What is your position there at present?</p> <p>19       A. I'm going with my old title. Night shift 20       supervisor.</p> <p>21       Q. Has there been some transition in your position 22       recently?</p> <p>23       A. Yes. Everybody got displaced. We went from a 24       wood factory to a plastic factory. And the slow startup, 25       everyone is getting foreman positions. I'm presently back</p>

<p style="text-align: right;">Page 5</p> <p>1 on night shift doing a foreman job or my -- yeah, foreman 2 job on night shift. 3 Q. How long have you been on the night shift? 4 A. I started the night shift in 1995 to December of 5 2005, at which time we shut the second shift down and, you 6 know, we all worked day shift. 7 Q. Okay. 8 A. And I'm back on nights. Approximately two and a 9 half months ago I started back on night shift. 10 Q. When does the night shift begin and when does it 11 end? 12 A. Shift starts at -- I start at 3:00, and it ends at 13 11:00 p.m. 14 Q. The day shift and the night shift, do they employ 15 roughly the same number of inmates at the facility? 16 A. No, they do not. 17 Q. Okay. How do they -- and let me back up to the 18 time when the facility was a furniture or wood factory. At 19 that time was there a difference in the number of inmates 20 working at UNICOR during the day shift versus during the 21 night shift? 22 A. Yes, there was a difference. 23 Q. Okay. Were there fewer or greater number of folks 24 in the night shift? 25 A. There were fewer on nights.</p>	<p style="text-align: right;">Page 7</p> <p>1 A. The structure was Marty Sapko started as the 2 assistant factory manager -- can I ask you one question 3 before I go farther on the structure? 4 MR. GOLDRING: Can we go off the record for a 5 minute? 6 MR. LANZILLO: Sure. 7 (Discussion held off the record.) 8 Q. Mr. English, I'm going to be asking you some 9 questions in a moment regarding your work history and your 10 background. But for purposes of my current inquiry, let's 11 focus on the time frame 2001 through 2004. Focusing on 12 those years, who would have been your immediate supervisors? 13 A. (No response.) 14 Q. For example, was Mr. Sapko your immediate 15 supervisor throughout the period of time 2001 through 2004? 16 A. The dates -- I'm confused on the dates. I 17 can't -- I can't remember when Mr. Sapko came on his actual 18 position. I'm going to go with Mr. Sapko and Mrs. Forsyth. 19 Q. Okay. 20 A. Okay? 21 Q. Well, let me back up, then, a little bit and just 22 get some additional background. First of all, what is your 23 educational background? Did you graduate from high school? 24 A. Yes, I did. 25 Q. What year did you graduate from high school?</p>
<p style="text-align: right;">Page 6</p> <p>1 Q. Approximately how many worked on the night shift? 2 A. At one time I had approximately 120 to 130 inmates 3 on night shift. 4 Q. How does that compare with the day shift? 5 A. Day shift, I'm going to take a guess; right around 6 180 to 200, depending on the circumstance. 7 Q. What was your job title when the UNICOR facility 8 made furniture? 9 A. Night shift -- night shift supervisor. Or also 10 could have been called general foreman. Depends on who 11 was -- 12 Q. Is that the same position, essentially; night 13 shift supervisor versus general foreman? 14 A. Yes. 15 Q. I've seen you referred to as the general foreman, 16 that's why I asked. While you were employed at UNICOR as 17 the general foreman or night shift supervisor and the 18 facility was still a wood or furniture factory, who was your 19 immediate supervisor? 20 A. Marty Sapko. 21 Q. Anyone else? 22 A. Above Marty would have been Debora Forsyth. Can I 23 add to that? Another boss that I did work for was Ed 24 Willis. 25 Q. And what was Mr. Willis' position?</p>	<p style="text-align: right;">Page 8</p> <p>1 A. 1974. 2 Q. Did you have education beyond high school? 3 A. I had vocational training, carpenter class. 4 Q. Where did you receive that training? 5 A. Warren Area High School and Warren Area Vo-Tech 6 School. 7 Q. Did you receive that after high school graduation 8 or before? 9 A. It was all during high school graduation [sic]. 10 Q. So that would have been part of your high 11 school -- 12 A. '71 through '74, yes. 13 Q. And after completing high school, including your 14 vocational training, did you receive any further education 15 beyond that? 16 A. Just on-the-job education. 17 Q. And that's a good segue into your employment 18 background. Tell me how you were employed after graduating 19 from high school. 20 A. From 1974 to 1981, I was employed at Struthers &amp; 21 Wells Corporation in Warren, Pennsylvania. 22 Q. Struthers &amp; Wells? 23 A. Correct. 24 Q. What do they do? 25 A. They made heat exchangers and boilers and stuff</p>

<p style="text-align: right;">Page 9</p> <p>1 like that.</p> <p>2 Q. What was your position there?</p> <p>3 A. I held -- had several. I worked in the carpenter</p> <p>4 shop. I was equipment operator.</p> <p>5 Q. Okay. And then after Struthers &amp; Wells</p> <p>6 Corporation, after 1981 when you left Struthers &amp; Wells,</p> <p>7 where did you go to work?</p> <p>8 A. From 1981 to 1992, I was employed by the Warren</p> <p>9 County Sheriff's Department as a deputy sheriff.</p> <p>10 Q. Why did you leave that position?</p> <p>11 A. To further my career in UNICOR at federal prison</p> <p>12 industries.</p> <p>13 Q. So there was an opportunity at UNICOR --</p> <p>14 A. Yes.</p> <p>15 Q. -- and you decided to leave the Warren County</p> <p>16 Sheriff's Department to pursue that opportunity?</p> <p>17 A. That's correct.</p> <p>18 Q. All right. So then 1992, you became an employee</p> <p>19 of the Bureau of Prisons? Is that correct?</p> <p>20 A. That's correct.</p> <p>21 Q. And what was your first position at FCI McKean?</p> <p>22 A. Correctional officer.</p> <p>23 Q. Now, that position, it would have been outside of</p> <p>24 UNICOR, would it not?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 11</p> <p>1 2005, did you remain a general foreman?</p> <p>2 A. Correct. My title never changed.</p> <p>3 Q. All right. And what were your responsibilities as</p> <p>4 a general foreman at UNICOR?</p> <p>5 A. I was in charge of the inmate population, the</p> <p>6 foremen that worked under me, and the production on the</p> <p>7 night shift.</p> <p>8 Q. When you say you were in charge of the production</p> <p>9 on the night shift, did you set any type of production goals</p> <p>10 or quotas?</p> <p>11 A. Not quotas. We always had due dates we went by,</p> <p>12 and we pulled orders from the machinery and floors by due</p> <p>13 dates and worked on specific orders on a nightly basis by</p> <p>14 due dates.</p> <p>15 Q. And how were due dates determined?</p> <p>16 A. I don't understand that question.</p> <p>17 Q. Were there different projects proceeding through</p> <p>18 production at UNICOR at any given time?</p> <p>19 A. Again, you go by due dates. The boss may have a</p> <p>20 due date. That job would have to be out the door at such</p> <p>21 and such a date. That's the due dates. Okay? I mean, the</p> <p>22 customer had an order, and it had to be out the door by such</p> <p>23 and such a date.</p> <p>24 Q. I got you.</p> <p>25 A. We just went by -- in other words, if this job</p>
<p style="text-align: right;">Page 10</p> <p>1 Q. All right. So you're a correctional officer in</p> <p>2 the general prison population?</p> <p>3 A. Yes.</p> <p>4 Q. And how long did you remain a correctional</p> <p>5 officer?</p> <p>6 A. Three months.</p> <p>7 Q. And what was your next position after correctional</p> <p>8 officer?</p> <p>9 A. Foreman in UNICOR.</p> <p>10 Q. Did your job title change between becoming a</p> <p>11 foreman at UNICOR in around 1992 and the date that the</p> <p>12 facility ceased to be a wood and furniture factory, or did</p> <p>13 you remain a foreman throughout that period of time?</p> <p>14 A. From 1992 to 1995, I was a foreman, and I was</p> <p>15 promoted to the night shift general foreman position in '95.</p> <p>16 Q. Did your job title change at any time between</p> <p>17 '95 and the date when UNICOR at FCI McKean ceased to be a</p> <p>18 wood and furniture factory, or did you remain a general</p> <p>19 foreman throughout that period?</p> <p>20 A. Did it change after we went from wood to plastic?</p> <p>21 Is that your question, sir?</p> <p>22 Q. No. I'm focussing on the period of time between</p> <p>23 1995, when you became a general foreman, and the date that</p> <p>24 the facility ceased to be a furniture and wood factory.</p> <p>25 During that period of time, 1995 to, I guess, approximately</p>	<p style="text-align: right;">Page 12</p> <p>1 had -- is July 10th, and this job had July 15th, and this</p> <p>2 job was July 20th, we would work on the 15th job that night.</p> <p>3 Always went by priority dates; earliest date to later date.</p> <p>4 Q. And my question is simply: Where did those due</p> <p>5 dates come from? Did you set them or did they come down</p> <p>6 from a higher authority?</p> <p>7 A. They come down from a higher authority.</p> <p>8 Q. All right. Do you know who set the due dates for</p> <p>9 production?</p> <p>10 A. It would come out of the upper office. Like the</p> <p>11 factory manager's office.</p> <p>12 Q. Who within UNICOR was primarily responsible for</p> <p>13 matters of Occupational Safety and Health during the time</p> <p>14 that you were general foreman? I'm sorry -- yeah, general</p> <p>15 foreman.</p> <p>16 A. Well, we all were responsible for safety. Any</p> <p>17 issues that would come up in reference to me, I would try to</p> <p>18 solve the problem verbally, and if it was a safety or --</p> <p>19 problem, I would direct that through our safety department</p> <p>20 and my supervisors.</p> <p>21 Q. Who did you understand to be the highest authority</p> <p>22 within UNICOR on issues of safety and health?</p> <p>23 A. The highest authority that I would understand</p> <p>24 would be Steve Housler, which is our safety manager, and the</p> <p>25 highest chain of command we'd have after that in our factory</p>

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1 would be our SOI, superintendent of industries, which would  
 2 have been Deb Forsyth.  
 3 Q. Let me be a little more specific as to certain  
 4 aspects of Occupational Safety and Health. Who, for  
 5 example, was responsible for compiling and maintaining  
 6 Material Safety Data Sheets or MSDS sheets?  
 7 A. (Pause.) I don't understand the question. I -- I  
 8 understand your question, but I don't know who -- what  
 9 you're looking for.  
 10 MR. GOLDRING: And just to remind you, Dave, if  
 11 you don't know the answer to a question --  
 12 THE WITNESS: Right.  
 13 MR. GOLDRING: -- it's okay to just --  
 14 THE WITNESS: Okay.  
 15 MR. GOLDRING: -- to just respond with I don't  
 16 know the answer to the question.  
 17 Q. Yeah, that's fine. I mean, if you don't know, I  
 18 don't want you to guess.  
 19 A. Right.  
 20 Q. I mean, do you know who was responsible for  
 21 compiling and maintaining Material Safety Data Sheets within  
 22 UNICOR?  
 23 A. I would be safe to say the factory manager, and  
 24 there's a foreman, Darryl Snyder, actually made sure the  
 25 book was updated.

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1 Q. Mr. English, I've noticed that periodically as  
 2 you're answering my questions, you're referring to documents  
 3 in a notebook. May I ask you what you have with you today?  
 4 A. I just have a few notes jotted down for my memory.  
 5 Q. I'm not very good at reading upside-down, but I  
 6 see that -- is that an e-mail or --  
 7 A. That's just our addresses and stuff from here --  
 8 for here.  
 9 Q. All right. This is communication with your  
 10 counsel, right?  
 11 A. Right. That's all that is.  
 12 Q. I want to be fair to you. If you look at a  
 13 document to help yourself answer a question, I'm going to  
 14 want to see it.  
 15 A. That's fine. I have no problem with that.  
 16 Q. So I just want to give you a heads up on that.  
 17 A. I have no problem.  
 18 Q. And I'm not going to discourage you from doing  
 19 that.  
 20 A. Right.  
 21 Q. I just want to let you know if you do that, so I  
 22 know how you're answering the question, I will ask to see  
 23 the document.  
 24 A. I understand that.  
 25 MR. GOLDRING: Can we just have a minute?

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1 MR. LANZILLO: Sure.  
 2 (Discussion held off the record.)  
 3 Q. So with respect to the MSDS sheets, I think you  
 4 mentioned the factory manager would have some responsibility  
 5 for those. Is that right?  
 6 A. To my understanding, yes.  
 7 Q. And who held the position of factory manager  
 8 between 2001 and end of 2004?  
 9 A. Marty Sapko.  
 10 Q. And you mentioned another individual who --  
 11 whether he was directly responsible for those or not, you  
 12 believe at least was involved in updating those sheets.  
 13 What was that person's name again?  
 14 A. Darryl Snyder.  
 15 Q. What was Mr. Snyder's title again?  
 16 A. He's a woodworking foreman or -- yeah.  
 17 Woodworking foreman.  
 18 Q. In the hierarchy at UNICOR, would he be in a  
 19 position above your position, on the same level as your  
 20 position, or below you?  
 21 A. He'd have been below me positionwise and  
 22 titlewise.  
 23 Q. Do you know how it is that Darryl Snyder came to  
 24 be working with the MSDS sheets?  
 25 A. No, I don't.

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1 Q. When you joined UNICOR, did you receive any -- any  
 2 training?  
 3 A. Just on-the-job training; being familiar with the  
 4 factory, the machinery, the production process.  
 5 Q. And by on-the-job training, do you mean that you  
 6 started working and that over time you learned about the  
 7 machinery, you learned about the operations, essentially by  
 8 being there, by going through the processes?  
 9 A. That's correct.  
 10 Q. All right. So there was no formal training  
 11 program where you were -- you know, you sat down either in a  
 12 classroom or in the facility itself and someone said, this  
 13 is how it's done, this is what we do, this is the way you  
 14 handle this machine, things of that nature?  
 15 A. No.  
 16 Q. Was there any occupational safety or health  
 17 training provided while you were employed at UNICOR?  
 18 A. No.  
 19 Q. Did you ever participate in maintaining or  
 20 updating the MSDS sheets?  
 21 A. No.  
 22 Q. Did you ever read the MSDS sheets?  
 23 A. Not a whole lot.  
 24 Q. When you say "not a whole lot", can you remember  
 25 any occasion where you found -- found it necessary or

<p style="text-align: right;">Page 17</p> <p>1 helpful to review the MSDS sheets?</p> <p>2 A. If an issue would come up, I would try to find</p> <p>3 that specific sheet and read on it, correct.</p> <p>4 Q. Do you know whether an MSDS sheet existed between</p> <p>5 2001 and 2004, the end of 2004, for Micore board?</p> <p>6 A. Yes.</p> <p>7 Q. I take it from your answer that you're aware that</p> <p>8 one did exist?</p> <p>9 A. Was your question --</p> <p>10 Q. Yes.</p> <p>11 A. -- was there a sheet?</p> <p>12 Q. Yes.</p> <p>13 A. Yes.</p> <p>14 Q. All right. And did you ever have occasion to</p> <p>15 review that sheet for Micore board? That MSDS for Micore</p> <p>16 board.</p> <p>17 A. Yeah.</p> <p>18 Q. Okay. And what prompted you to review the MSDS</p> <p>19 sheet for Micore board?</p> <p>20 A. One of my foremen had an issue with it, so I read</p> <p>21 up on it.</p> <p>22 Q. Which foreman was that?</p> <p>23 A. Robin Bevevino.</p> <p>24 Q. When did you review the MSDS sheet for Micore</p> <p>25 board?</p>	<p style="text-align: right;">Page 19</p> <p>1 some question regarding the date of this exhibit. And for</p> <p>2 the record, this is a memo to Marty Sapko from you, and the</p> <p>3 subject is Foreman Robin Bevevino. The document you're</p> <p>4 examining now as your Exhibit 1 has a date indicated of</p> <p>5 April 16, 2003. Other versions of this memo have much more</p> <p>6 recent dates, which I understand from counsel the difference</p> <p>7 in the dates arises from the fact that there's an automatic</p> <p>8 date updating system on the computer, so when counsel</p> <p>9 retrieved this document from the computer, the computer</p> <p>10 automatically updated the date. That's why we're seeing</p> <p>11 more recent dates, including right up through 2006.</p> <p>12 With that background on the record, let me ask</p> <p>13 you, first of all, did you create, compose Exhibit 1? Is</p> <p>14 this your document?</p> <p>15 A. Yes.</p> <p>16 Q. All right. Now, this version of Exhibit 1, am I</p> <p>17 correct that this came out of your files?</p> <p>18 A. Correct.</p> <p>19 Q. This version of the memo, Exhibit 1 to your</p> <p>20 deposition, has a date of April 16, 2003. Is that the date</p> <p>21 when you first drafted or prepared Exhibit 1?</p> <p>22 A. Yes.</p> <p>23 Q. And that would be consistent with the first</p> <p>24 paragraph of Exhibit 1, which appears to memorialize a</p> <p>25 conversation that you had with Foreman Bevevino on April 16,</p>
<p style="text-align: right;">Page 18</p> <p>1 A. I don't recall the date.</p> <p>2 Q. Do you recall the year?</p> <p>3 A. No. I'd have to guess, and I don't recall the</p> <p>4 year.</p> <p>5 Q. All right. What was the issue that Robin Bevevino</p> <p>6 had with Micore board?</p> <p>7 (Discussion held off the record.)</p> <p>8 Q. Before you get started in responding, for the</p> <p>9 record, the witness has indicated a desire to see a memo</p> <p>10 that we previously exchanged.</p> <p>11 MR. LANZILLO: And so the record is clear, why</p> <p>12 don't we go ahead and mark this as English Exhibit</p> <p>13 1.</p> <p>14 MR. GOLDRING: If we can, again, agree that we're</p> <p>15 not a hundred percent certain that the date is</p> <p>16 correct on the top of the memo.</p> <p>17 MR. LANZILLO: Since Mr. English is the author of</p> <p>18 this document, I'll ask him some questions about</p> <p>19 the date and make sure it's clear on the record.</p> <p>20 (English Deposition Exhibit 1</p> <p>21 marked for identification.)</p> <p>22 Q. And while you're reviewing that, Mr. English, let</p> <p>23 me just note a couple things for the record. An almost</p> <p>24 identical version of your Deposition Exhibit 1 has been</p> <p>25 previously marked in earlier depositions. There has been</p>	<p style="text-align: right;">Page 20</p> <p>1 2003 at 7:30 p.m. Is that correct?</p> <p>2 A. Yes.</p> <p>3 Q. All right. Recognizing that this is more than</p> <p>4 three and a half years ago, is it your recollection that</p> <p>5 after you had that conversation with Mr. Bevevino, you at</p> <p>6 some point sat down and prepared this memorandum that same</p> <p>7 day?</p> <p>8 A. To the best of my knowledge, yes.</p> <p>9 Q. Where did you prepare this document, Exhibit 1?</p> <p>10 Did you do it on your computer at work?</p> <p>11 A. Correct.</p> <p>12 Q. In the third paragraph of Exhibit 1, there is a</p> <p>13 statement, it says quote, "He --" and correct me if I'm</p> <p>14 wrong; the "he" in that sentence, the second sentence of the</p> <p>15 third paragraph, that's a reference to Mr. Bevevino?</p> <p>16 A. (No response.)</p> <p>17 Q. The sentence begins, "He said there is cancer..."</p> <p>18 A. That's correct; Mr. Bevevino.</p> <p>19 Q. Okay. So according to the third paragraph of</p> <p>20 Exhibit 1, Mr. Bevevino, quote, said, "There is cancer</p> <p>21 causing agents in the micro [sic] board, and he is not going</p> <p>22 to tolerate it."</p> <p>23 Let me stop there. Are those his words, or is</p> <p>24 that your paraphrase of what he told you?</p> <p>25 A. They are his words.</p>

5 (Pages 17 to 20)



<p style="text-align: right;">Page 21</p> <p>1 Q. To the best of your recollection, tell me what you 2 remember Mr. Bevevino telling you on April 16, 2003 3 regarding concerns he had with Micore board. 4 A. This was all he said right here (indicating), 5 basically. 6 Q. Did you know whether he was talking about the dust 7 that was created as a by-product of cutting and sawing the 8 Micore board? 9 A. Could you repeat that question? 10 Q. Sure. And for clarity, I'll back up a little bit. 11 When Micore board is cut on a table saw or another type of 12 saw or mitered, does it generate dust? Does it create dust 13 as a by-product? 14 A. Absolutely. A little bit of dust. Anything you 15 cut is going to create a little bit of dust. 16 Q. Okay. And I understand that there was some sort 17 of a system in place to try to control that dust. Is that 18 correct? 19 A. That's correct. 20 Q. All right. Notwithstanding that system, based on 21 your observations and knowledge, did some of the dust 22 actually enter the air in the area of the operator? 23 A. Yes. There's always a little bit of dust no 24 matter what you're cutting. 25 Q. And did you see whether the dust, for example, you</p>	<p style="text-align: right;">Page 23</p> <p>1 they could -- 2 A. Yes. 3 Q. -- clean up the dust? They could sweep it into, 4 what, piles on the floor? 5 A. Well, they would be -- yeah. Yes. 6 Q. And once it was swept into piles on the floor, 7 what, do they use a dust pan and pick it up and then put it 8 in the system, or is there an actual inlet where they could 9 just sweep it right into the system, the dust-collection 10 system? 11 A. Both. Dust pan and the dust-collection system. 12 Q. Did inmates ever use a pneumatic or air pressure 13 device to clean up the dust? 14 A. On a regular daily basis, air hoses were not 15 allowed to use to blow off machines or equipment. Did they? 16 Yes. 17 Q. So they would use the air hoses to blow the dust 18 off of the equipment? 19 A. That's correct to say they did. 20 Q. Was there a written policy anywhere about doing 21 that; about using air hoses to blow off the dust from the 22 equipment? 23 A. I don't know the answer to that one. 24 Q. If one existed, you're not aware of it. 25 A. Correct.</p>
<p style="text-align: right;">Page 22</p> <p>1 know, would -- you know, would you see it accumulate, you 2 know, in someone's hair or on their clothing? I mean, could 3 you observe that? 4 A. No. 5 Q. How about on the table saw itself? Would there 6 be, like, some dust that would settle on the top of the saw? 7 A. Very little. 8 Q. But there would be at least some. 9 A. Some. 10 Q. All right. And how about on the floor in the area 11 around the saws? Would there be dust that would accumulate? 12 A. Possibly in the immediate area; small amount. 13 Q. And would someone have to clean up that dust? 14 A. Absolutely. 15 Q. And how would that be done? 16 A. The majority of the dust, we had a 17 state-of-the-art dust-collection system. Big, powerful 18 system. I would have to say a majority or most of it would 19 go through the dust-collection system. 20 Your question, was there some on the tabletop, 21 yes. They would clean it up. How? They would brush it off 22 or sweep it off the floor into a dust-collection system or 23 sweep it up. 24 Q. So did you observe inmates, what, brushing the 25 dust off the table -- table saw? Is that one means by which</p>	<p style="text-align: right;">Page 24</p> <p>1 Q. Now, you're -- I don't know if you're reading from 2 or just referencing your notes in front of you. When did 3 you prepare those notes that you're looking at? 4 A. I just jotted these down last week. 5 Q. Did you jot down those notes after any discussions 6 with anyone? Let me ask you, did you discuss any of the 7 topics we're exploring today in your deposition with anyone 8 prior to your deposition? 9 A. (No response.) 10 Q. Mr. Housler, Mr. Sapko, anyone like that? 11 A. No. 12 Q. Anyone at all? 13 MR. GOLDRING: Just us. 14 A. Just him. 15 Q. I don't want to ask you about that. But let me 16 ask you, has anyone told you what other deponents have said 17 in this case? 18 A. No, they have not. 19 Q. Okay. Were inmates who worked with Micore board, 20 including the sawing of Micore board, required to wear 21 respirators? 22 A. Dusk masks? 23 Q. Well, let me start with respirators. Do you 24 know -- in your mind, is there a difference between a 25 respirator and a dust mask?</p>

6 (Pages 21 to 24)

Page 25

1 A. Depends on what you're speaking of. Respirators,  
 2 there's -- yes, in my opinion, from your questions,  
 3 respirators are filtered, screwed on, which painters would  
 4 use or -- is that your question, sir? Did they have that?  
 5 Q. Yes. And let me just, for purposes of my next  
 6 couple questions, adopt your definition; that a respirator  
 7 would have the filters that attach and be, I guess, firmly  
 8 secured by straps to someone's face. With that device in  
 9 mind, were inmates required to wear respirators when cutting  
 10 Micore board?  
 11 A. No.  
 12 Q. Were inmates required to wear masks when cutting  
 13 Micore board?  
 14 A. They had them to use at their convenience.  
 15 Q. But they were not required to wear them? Is that  
 16 a correct statement?  
 17 A. Yes. That's correct.  
 18 Q. So just to make sure the record is clear, there  
 19 was no requirement -- well, let me ask you the question in a  
 20 simple form. Were inmates required to wear masks when  
 21 cutting Micore board?  
 22 A. (No response.)  
 23 Q. And I'm just simply looking for a yes or a no on  
 24 that one.  
 25 A. I'm going to say it was required -- can I go off

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1 the record one second?  
 2 Q. Are you going to confer with counsel on -- do you  
 3 want to confer with your counsel on this?  
 4 A. Well, yes.  
 5 Q. Okay.  
 6 (Discussion held off the record.)  
 7 Q. Back on the record. Let me restate the question.  
 8 My question is simply, were inmates required to wear a dust  
 9 mask when cutting Micore board?  
 10 A. I don't know the answer for the requirement.  
 11 Q. If there were such a requirement, you were not  
 12 aware of it? Is that a fair statement?  
 13 A. Your requirement question, I'm perceiving that --  
 14 is that a rule and a regulation that I had to enforce?  
 15 Q. Um-hum.  
 16 A. I'd say if it was a requirement, I would make  
 17 them, but if a guy didn't want to wear one at his option, I  
 18 don't know if I would force him. That's where I'm confusing  
 19 the question, sir.  
 20 Q. Well, let me ask you this: Did you ever say to an  
 21 inmate cutting Micore board, or who had a position that  
 22 involved cutting Micore board or working in the areas where  
 23 Micore board was being sawed, you must wear a dust mask?  
 24 A. (No response.)  
 25 Q. Or words to that effect.

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1 A. Yes, more than likely.  
 2 Q. You say "yes, more than likely".  
 3 A. Okay. Yes.  
 4 Q. And to whom did you make that statement? Which  
 5 inmates?  
 6 A. The operators on my saws. We'd have available and  
 7 issue them dust masks, to any operators or workers on that  
 8 specific equipment.  
 9 Q. And why did you do that? Why did you tell them  
 10 that they must wear a dust mask?  
 11 A. They were the operators of that machine.  
 12 Q. And was your understanding that as operators of  
 13 the machine, they are going to be the ones most directly  
 14 exposed to dust being generated --  
 15 A. From that machine, correct.  
 16 Q. Do you know whether anyone else issued any type of  
 17 similar direction to inmates; that they wear -- specifically  
 18 that they wear a dust mask when cutting or working in the  
 19 vicinity of cutting of Micore board?  
 20 A. I don't understand your question. "Anyone else",  
 21 I don't follow you.  
 22 Q. Sure. Well, you've told me what you told inmates;  
 23 specifically that they must wear a dust mask when cutting  
 24 Micore board. My question is, to your knowledge, did anyone  
 25 else in the UNICOR facility issue a similar directive?

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1 A. I don't recall.  
 2 Q. Do you know Michael Hill, Leslie Kelly, Kevin  
 3 Siggers, Myron Ward, or Kenny Hill? Are you familiar with  
 4 those inmates?  
 5 A. I'm familiar with Hill, Hill, and Ward.  
 6 Q. So you're not familiar with Mr. Siggers?  
 7 A. He worked the day shift.  
 8 Q. And you're not familiar with Mr. Kelly?  
 9 A. He worked the day shift.  
 10 Q. Did you ever tell Michael Hill that he had to wear  
 11 a dust mask when working with Micore board?  
 12 A. No, I did not. I don't believe Mr. Hill ever  
 13 worked with Micore board.  
 14 Q. Did you ever tell Kenny Hill that he had to wear a  
 15 dust mask when working with Micore board?  
 16 A. Not to my knowledge.  
 17 Q. And did you ever tell Myron Ward that he had to  
 18 wear a dust mask when working with Micore board?  
 19 A. Not to my knowledge.  
 20 Q. After you had your conversation with Robin  
 21 Bevevino on or about April 16, 2003, is that when you  
 22 reviewed the MSDS for Micore board?  
 23 A. I could have reviewed it prior to that date, but I  
 24 definitely reviewed it that night after our discussion.  
 25 Q. If you reviewed it prior to that date -- and I

7 (Pages 25 to 28)

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1 understand what you're telling me; that you may have. But  
2 sitting here today, you don't have any recollection of doing  
3 that prior to April 16, 2003; is that correct?

4 A. Correct.

5 Q. All right. So you know you reviewed it after your  
6 conversation with Robin Bevevino on April 16, 2003. My  
7 question is -- well, first of all, what do you remember from  
8 that review? Was there anything about the information on  
9 the MSDS that you thought was significant or important?

10 A. There was nothing on there that I can recall that  
11 bothered me personally in reference to my own safety and  
12 health, no.

13 Q. What about as to the safety and health of machine  
14 operators, saw operators? Was there anything in there that  
15 raised any concerns regarding that issue?

16 A. I can't recall what the information was --

17 (Witness asked for clarification by the reporter.)

18 A. I can't recall what the information was on the  
19 MSDS without reviewing this.

20 Q. Let me ask you this: After reviewing the MSDS  
21 sheet, did that prompt you to change anything in the way you  
22 supervised the inmates working in UNICOR?

23 A. No.

24 Q. The memo we've marked as your deposition Exhibit  
25 1, was that transmitted to Marty Sapko on or about April 16,

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1 Q. Did you ever hear indirectly that anyone had  
2 complained or was having trouble with respiratory problems  
3 or skin or eye irritation?

4 A. No. The best I can recall, no.

5 Q. So as far as you know, no one had any of those  
6 problems in the shop?

7 A. Best of my knowledge, no.

8 Q. Now, during the night shift when you worked, where  
9 were you located?

10 A. I was everywhere in the factory. My job was to  
11 run the factory, so, obviously, I roamed through the  
12 factory. I had an office I work out of, and I would be on  
13 the floor the majority of my shift.

14 Q. Did you actually operate any of the machinery as  
15 part of your job?

16 A. Not on a daily basis, no.

17 Q. How often would you operate the machinery on the  
18 factory floor?

19 A. Basically inmates always were the ones to operate  
20 the machines.

21 Q. That really wasn't part of your job, I take it.

22 A. No.

23 Q. You spoke softly there. That was a no?

24 A. Oh, I'm sorry.

25 Q. That's all right. Why did you prepare your

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1 2003?

2 A. Yes.

3 Q. Was it sent to anyone else?

4 A. I'm assuming I gave Marty Sapko a copy and Deb  
5 Forsyth, but I'm not positive on Deb. I always go by chain  
6 of command, and Marty was my first supervisor on the chain  
7 of command. For sure he got one.

8 Q. And you may have given one to Miss Forsyth, but  
9 you don't recall.

10 A. Correct.

11 Q. And did Mr. Sapko or Ms. Forsyth change any of the  
12 policies, procedures, or rules at UNICOR after you issued  
13 your memo of April 16th, 2003?

14 A. I don't recall.

15 Q. If they did, you don't remember, sitting here  
16 today?

17 A. Correct.

18 Q. Did any inmate or staff member at UNICOR ever  
19 complain of respiratory problems?

20 A. No inmate ever complained to me ever about any  
21 problem and no staff, except for Mr. Bevevino in your  
22 Exhibit 1.

23 Q. Is that also true if I were to ask you whether  
24 anyone ever complained about skin or eye irritation?

25 A. Correct. No one ever complained to me about it.

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1 Deposition Exhibit 1, your memo dated April 16, 2003?

2 A. Only to inform my supervisor of what is written in  
3 this Exhibit 1.

4 Q. Did your conversation with Mr. Bevevino raise any  
5 safety or health concerns in your mind?

6 A. No.

7 Q. Do you have a recollection regarding whether the  
8 MSDS sheet for Micore board said anything about the use of  
9 respirators or masks when cutting or utilizing Micore board?

10 A. It may have, but without reviewing it, I can't  
11 recall.

12 Q. Do you have any knowledge of any handwritten  
13 changes made to the MSDS sheets, specifically with reference  
14 to respirators or Micore board? Excuse me. Let me rephrase  
15 the question.

16 Do you have any knowledge of anyone changing the  
17 MSDS sheet for Micore board, specifically with reference to  
18 masks or respirators?

19 A. No.

20 Q. Did you ever make a change in that?

21 A. Absolutely not.

22 Q. How many copies of the MSDS sheets were maintained  
23 at UNICOR? Do you know?

24 A. Best of my knowledge, there was two copies; two  
25 books.

8 (Pages 29 to 32)



<p style="text-align: right;">Page 33</p> <p>1 Q. And where were those two books located?</p> <p>2 A. One was right outside the factory office, which</p> <p>3 all staff and inmates had access to it. I believe the</p> <p>4 second copy was always kept in the tool room.</p> <p>5 Q. Was there ever any training session conducted with</p> <p>6 the inmates during which the MSDS sheets were reviewed?</p> <p>7 A. I don't know the answer to that one.</p> <p>8 Q. If that --</p> <p>9 A. Or could you rephrase your question, sir.</p> <p>10 Q. Sure.</p> <p>11 A. Training for who? The inmates?</p> <p>12 Q. For the inmates, yes.</p> <p>13 A. Not to my knowledge. They had access to it for</p> <p>14 free reading purposes.</p> <p>15 Q. And approximately how many MSDS sheets were in the</p> <p>16 books?</p> <p>17 A. Total sheets in the book?</p> <p>18 Q. Um-hum.</p> <p>19 A. I have no idea, sir.</p> <p>20 Q. Were inmates required to wear any particular type</p> <p>21 of clothing when working in the UNICOR facility?</p> <p>22 A. Not required. Other than their issued -- let me</p> <p>23 rephrase that. They had to have their issued khaki shirt</p> <p>24 and pants on.</p> <p>25 Q. And the issued khaki shirt and pants, was -- were</p>	<p style="text-align: right;">Page 35</p> <p>1 Q. What about goggles? They had to wear safety</p> <p>2 glasses.</p> <p>3 A. Safety glasses were definitely worn.</p> <p>4 Q. And those are glasses, I take it, designed to</p> <p>5 protect the inmate from items flying up and hitting them in</p> <p>6 the eye --</p> <p>7 A. Correct.</p> <p>8 Q. -- is that correct? All right. They weren't</p> <p>9 required to wear goggles that would form around the face</p> <p>10 with a strap, were they?</p> <p>11 A. No.</p> <p>12 Q. And at the end of the shift when the inmates went</p> <p>13 back to their residences, am I correct that they would leave</p> <p>14 in the same clothes that they worked in?</p> <p>15 A. Yes.</p> <p>16 Q. Other than using a hand brush to sweep the</p> <p>17 tables -- table saws and other equipment, the</p> <p>18 dust-collection system that was attached, pneumatic air</p> <p>19 hoses, and brooms and dust pans, was anything else used by</p> <p>20 the inmates to clean up in the areas in or around the</p> <p>21 equipment that cut Micore board?</p> <p>22 A. I believe they had access to a Shop-Vac.</p> <p>23 Q. Where was that stored?</p> <p>24 A. I'd say we had one under our stairwell on the</p> <p>25 factory floor and maintenance shop.</p>
<p style="text-align: right;">Page 34</p> <p>1 those items that they would wear when they were outside of</p> <p>2 the UNICOR facility as well?</p> <p>3 A. Correct.</p> <p>4 Q. So basically their regular prison garb.</p> <p>5 A. Correct.</p> <p>6 Q. The inmates weren't required to wear coveralls, I</p> <p>7 take it, while working in the shop?</p> <p>8 A. We had them, and they would wear them at their</p> <p>9 request. I'm not positive there. I don't recall them being</p> <p>10 required to wear them. We had them there, and if they want</p> <p>11 them, they could wear them.</p> <p>12 Q. But would I be accurate in concluding that most of</p> <p>13 the prisoners working in UNICOR were not wearing coveralls?</p> <p>14 A. Correct.</p> <p>15 Q. All right. Were they required to wear</p> <p>16 long-sleeved shirts, or could they wear short sleeves or</p> <p>17 even just a T-shirt?</p> <p>18 A. You're correct. They could wear --</p> <p>19 Q. At their option they could wear a long-sleeved</p> <p>20 shirt, if they had one, a short-sleeved shirt, or even just</p> <p>21 a T-shirt.</p> <p>22 A. And/or a jumpsuit, if they wanted to.</p> <p>23 Q. Were they required to wear any type of head</p> <p>24 covering; a cap, or anything like that? The inmates?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 36</p> <p>1 Q. How often was a Shop-Vac used to clean up?</p> <p>2 A. At their disposal. Whenever they wanted it, I</p> <p>3 believe. I'm not positive.</p> <p>4 Q. But as a matter of practice, would it be fair to</p> <p>5 say that the Shop-Vac was rarely used to clean up in or</p> <p>6 around the equipment? It was mostly done with brushes and</p> <p>7 brooms and the like?</p> <p>8 A. Yes.</p> <p>9 Q. And certainly using the Shop-Vacs was not</p> <p>10 required. Is that a correct statement?</p> <p>11 A. Yes.</p> <p>12 Q. To phrase my question a little differently, were</p> <p>13 the inmates required to use Shop-Vacs. The answer is?</p> <p>14 A. No. Except -- can I elaborate on that?</p> <p>15 Q. Of course.</p> <p>16 A. If I recall right, on the one router, after OSHA</p> <p>17 come in, they hooked up a Shop-Vac on that, if I remember</p> <p>18 correctly. I'm not a hundred percent positive, but I</p> <p>19 believe I can remember that.</p> <p>20 Q. On the one router, after OSHA came through and did</p> <p>21 their inspection, when you say they hooked up a Shop-Vac,</p> <p>22 what do you mean by that? I think I know, but why don't you</p> <p>23 explain it.</p> <p>24 A. To the best of my recollection on that -- on that</p> <p>25 router, the router had a hole where most all the dust would</p>

<p style="text-align: right;">Page 37</p> <p>1 get sucked down in through dust collection, and they put a</p> <p>2 Shop-Vac there to use to suck up the little bit on the</p> <p>3 tabletop, if I recall right.</p> <p>4 Q. Okay. Were any other changes made at UNICOR after</p> <p>5 OSHA completed its investigation?</p> <p>6 A. Not that I can recall, other than that Shop-Vac.</p> <p>7 Q. Are you familiar with a product known as Lokweld</p> <p>8 or Lokweld 860/861?</p> <p>9 A. I'm familiar with it, yes.</p> <p>10 Q. Was that material utilized in the UNICOR facility?</p> <p>11 A. Yes.</p> <p>12 Q. And in what areas of the facility was that</p> <p>13 material used?</p> <p>14 A. Let me refresh my mind. To glue on laminate and</p> <p>15 backer to particle board products.</p> <p>16 Q. And where was that operation conducted within the</p> <p>17 facility?</p> <p>18 A. It would be -- the factory, it would be as you</p> <p>19 come in the factory, you'd walk in the factory, you'd go</p> <p>20 straight -- can I -- can I use my shop?</p> <p>21 MR. GOLDRING: Sure. And we'll just let the</p> <p>22 record show that we're referring to a diagram of</p> <p>23 the floor plan which I had provided counsel</p> <p>24 earlier in the day.</p> <p>25 Q. Yeah, that's helpful. Go ahead.</p>	<p style="text-align: right;">Page 39</p> <p>1 Q. So the area designated as the post form line,</p> <p>2 that's not enclosed, is it?</p> <p>3 A. No.</p> <p>4 Q. Okay. I think you were explaining where Lokweld</p> <p>5 was used, and you indicated on the post form line.</p> <p>6 A. Correct.</p> <p>7 Q. In any particular area of the post form line where</p> <p>8 that was -- where Lokweld was used?</p> <p>9 A. If you direct yourself to that square right there</p> <p>10 (indicating), that's basically the machine. That was an</p> <p>11 enclosed machine with enclosed doors where the Lokweld was</p> <p>12 sprayed with a humungous air hood, air dust-collection</p> <p>13 system right over that square area.</p> <p>14 Q. What is that square area called, do you know?</p> <p>15 A. That was actually the spray booth area of the post</p> <p>16 form line.</p> <p>17 Q. You know what, to ensure that the record is clear,</p> <p>18 why don't you just write in the box on the copy that we have</p> <p>19 marked as your Exhibit 2 "spray booth" where you're just</p> <p>20 indicating.</p> <p>21 A. (Witness complies.)</p> <p>22 Q. And so Lokweld would be applied in that spray</p> <p>23 booth.</p> <p>24 A. Um-hum.</p> <p>25 Q. And once the Lokweld was applied, would the</p>
<p style="text-align: right;">Page 38</p> <p>1 MR. LANZILLO: In fact, is it all right if we mark</p> <p>2 that?</p> <p>3 (English Deposition Exhibit 2</p> <p>4 marked for identification.)</p> <p>5 A. If you look directly under the UNICOR -- under the</p> <p>6 UNICOR business office mezzanine, you saw a post form line.</p> <p>7 Q. Yes.</p> <p>8 A. That was the area where we ran boards to glue</p> <p>9 laminate and back on them.</p> <p>10 Q. That's called post form line?</p> <p>11 A. Post form line, correct.</p> <p>12 Q. Now, there's some gray shading lines. They are</p> <p>13 light. There are dark lines on this diagram, then there are</p> <p>14 lighter, but thicker lines. Do those designate anything in</p> <p>15 particular? Do you see what I'm talking about?</p> <p>16 A. I'm believing these are aisle lanes, aisleways</p> <p>17 throughout the factory, to get through the factory.</p> <p>18 Q. Does it indicate the presence of any type of a</p> <p>19 wall or a partition, or are those just designating aisles?</p> <p>20 A. They are aisles, except if you direct yourself to</p> <p>21 the rear dock area.</p> <p>22 Q. Are there walls in the locations of those light</p> <p>23 gray lines?</p> <p>24 A. The light gray ones, not to my knowledge, looking</p> <p>25 at this.</p>	<p style="text-align: right;">Page 40</p> <p>1 products then come out of that booth and be further</p> <p>2 processed down the post form line?</p> <p>3 A. Correct.</p> <p>4 Q. Was Lokweld used in any other area of the</p> <p>5 facility?</p> <p>6 A. Yes.</p> <p>7 Q. What area is that? Or areas.</p> <p>8 A. Well, we had a special project area, and I'm</p> <p>9 searching for that at this moment.</p> <p>10 (Discussion held off the record.)</p> <p>11 A. I can't identify the area on this map, sir.</p> <p>12 Q. Okay. Well, then without regard to the map, the</p> <p>13 Exhibit 2, just tell me in your own words the location of</p> <p>14 the special projects area.</p> <p>15 A. It was over in this far corner (indicating).</p> <p>16 Q. Near the rear dock area? Oh, I'm sorry.</p> <p>17 A. No, we're on the other end.</p> <p>18 Q. Near the packing department.</p> <p>19 A. Well, it was up on this left end (indicating),</p> <p>20 correct. I'm not sure on this diagram what is what, because</p> <p>21 this ain't a real detailed map. But it would have been in</p> <p>22 this area somewhere (indicating).</p> <p>23 Q. Oh, somewhere up around the assembly department</p> <p>24 and the packing department? Somewhere in that vicinity?</p> <p>25 A. Yeah. Yes.</p>

<p style="text-align: right;">Page 41</p> <p>1 Q. And the Lokweld utilized in the special projects 2 area, how was it applied?</p> <p>3 A. A roller. A paint roller type roller.</p> <p>4 Q. Would it be dispensed out of some sort of bucket, 5 where you dip the roller and then apply it to some other 6 material?</p> <p>7 A. Correct.</p> <p>8 Q. And on to what material was the Lokweld applied in 9 the special projects area?</p> <p>10 A. It would be applied to the backer side of the 11 laminate and to the face side of the board.</p> <p>12 Q. Were inmates required to wear respirators or masks 13 when working with the Lokweld?</p> <p>14 A. Not to my knowledge.</p> <p>15 Q. Have you ever reviewed the MSDS sheet for Lokweld?</p> <p>16 A. I'm not sure. I may have and I may not.</p> <p>17 Q. Do you have any recollection of doing so?</p> <p>18 A. No.</p> <p>19 Q. Do you know whether a MSDS sheet exists for 20 Lokweld?</p> <p>21 A. I'm sure there was one in the book.</p> <p>22 Q. And why do you say that?</p> <p>23 A. Any product we had would be in that book. MS -- 24 every product would have an MSDS sheet.</p> <p>25 Q. And so based on the fact that there should be a</p>	<p style="text-align: right;">Page 43</p> <p>1 A. That's not part of the post form line, no.</p> <p>2 Q. Was Micore board cut or machined on that sander?</p> <p>3 A. No.</p> <p>4 Q. Do you see the reference to the Holzma panel saw? 5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. Was Micore board processed on that panel saw?</p> <p>8 A. Yes. The majority of it was cut on the Z-32 panel 9 saw, but we cut on both panel saws the Micore board.</p> <p>10 Q. The Z-32 panel saw is right next to the Holzma 11 panel saw, correct?</p> <p>12 A. Yes.</p> <p>13 Q. How many boards at a time were cut on either of 14 those two saws?</p> <p>15 A. Usually, most generally, three boards at a time.</p> <p>16 Q. And on occasions were more than three cut?</p> <p>17 A. No.</p> <p>18 Q. Was it possible to cut more than three boards at a 19 time?</p> <p>20 A. More than likely it would be possible to do more.</p> <p>21 Q. Was the cutting of three boards at a time typical?</p> <p>22 A. Yes.</p> <p>23 Q. There's a reference below the Z-32 panel saw to a 24 CNC machine. Is that, what, computer numerical control?</p> <p>25 A. Correct.</p>
<p style="text-align: right;">Page 42</p> <p>1 MSDS sheet for every product utilized in the facility, 2 you're assuming that one existed for Lokweld.</p> <p>3 A. Correct.</p> <p>4 Q. All right. But you have no recollection of ever 5 seeing one or referring to it yourself.</p> <p>6 A. I can't recall.</p> <p>7 Q. Let me ask you some additional questions about 8 Exhibit 2 here. There's a reference, a box here in the post 9 form line that says Tennon, T-E-N-N-O-N. What is that?</p> <p>10 A. That's a Tennon machine. That's not -- that's not 11 part of the post form line. That is a separate machine that 12 put radiuses on boards.</p> <p>13 Q. When you say "put radiuses on boards", is that a 14 cutting operation, a sawing-type operation?</p> <p>15 A. Yes. It's a large router-type cutting head on it.</p> <p>16 Q. Were Micore board materials cut on the Tennon 17 machine?</p> <p>18 A. No.</p> <p>19 Q. So that machine was never utilized to work with 20 Micore board?</p> <p>21 A. No.</p> <p>22 Q. At the other end of the area near the post form 23 line, there's a reference to a sander. Was that part of the 24 post form line, or was that for a different operation? Do 25 you see? Yeah, right there (indicating).</p>	<p style="text-align: right;">Page 44</p> <p>1 Q. What was the function of that CNC machine?</p> <p>2 A. A CNC machine was capable of routing boards, 3 specific shapes.</p> <p>4 Q. Did that CNC machine -- well, let me rephrase. 5 Was that CNC machine used to router Micore board?</p> <p>6 A. No.</p> <p>7 Q. Never?</p> <p>8 A. To the best of my knowledge, no.</p> <p>9 Q. Do you see at the opposite end of the three boxes 10 there, there's a reference to another CNC machine. What is 11 that?</p> <p>12 A. Basically the same type of machine, for routing 13 and cutting particle boards.</p> <p>14 Q. Okay. Was that one used for --</p> <p>15 A. Wood products.</p> <p>16 Q. Yeah. Was that one used for Micore board?</p> <p>17 A. No.</p> <p>18 Q. Were there any machines in the UNICOR facility 19 used to miter or router Micore board?</p> <p>20 A. Yes. The only machines that Micore board went on 21 or saw or whatever way you want to phrase it would be your 22 panel saws.</p> <p>23 Q. Okay. The Z-32 and the Holzma.</p> <p>24 A. Right. Go to your left. There's a diagram for 25 pin routers.</p>

<p style="text-align: right;">Page 45</p> <p>1 Q. I'm sorry; which one is that? Oh, I see. Pin 2 routers. Okay.</p> <p>3 A. The boards went from the saw to them routers. 4 From them routers to a boring machine to your far left.</p> <p>5 Q. I got it. All the way over in the assembly area. 6 A. Um-hum.</p> <p>7 Q. On the left. Okay.</p> <p>8 A. And then back down here to the packing department 9 (indicating).</p> <p>10 Q. Okay. And so, then, the only machines on which 11 Micore board was processed would have been the two panel 12 saws in the center of the diagram, the pin routers to the 13 left of the panel saws as you look at the diagram, and then 14 the boring machine that's at the far left of the diagram 15 marked as Exhibit 2. Is that correct?</p> <p>16 A. Correct.</p> <p>17 Q. All right. What is the function of a pin router? 18 A. I route the top of the board a three-eighth 19 radius, all the way around the Micore board, on the one pin 20 router, and I would route the corners on the other pin 21 router. Basically that's what I did on night shift.</p> <p>22 Q. It says pin routers, and it's plural. Is there 23 more than one machine there, or is that just a single 24 machine?</p> <p>25 A. There's four machines there.</p>	<p style="text-align: right;">Page 47</p> <p>1 Q. What is the E.B. machine? Do you see that? Next 2 to the pin router.</p> <p>3 A. E.B. stands for edge bander.</p> <p>4 Q. And what's a Brandt, B-R-A-N-D-T?</p> <p>5 A. (No response.)</p> <p>6 Q. It's right below the E.B.</p> <p>7 A. I see it. I believe, sir, that Brandt is that 8 contour banding. That's just -- I'm not sure where the word 9 Brandt come from. I think we had -- that was another 10 banding machine we had.</p> <p>11 Q. In either case, neither of those two machines, the 12 one designated as E.B. and the one designated as Brandt, was 13 used to process Micore board?</p> <p>14 A. No.</p> <p>15 Q. So my statement is correct; they weren't used.</p> <p>16 A. Correct.</p> <p>17 Q. There is a machine here between the two CNC 18 machines in the center of the diagram, Exhibit 2. It's -- 19 well, it's spelled W-E-E-K-E.</p> <p>20 A. Weeke.</p> <p>21 Q. Weeke. What is a Weeke?</p> <p>22 A. That was a boring -- another type boring machine.</p> <p>23 Q. Okay. Not used to process Micore board.</p> <p>24 A. No.</p> <p>25 Q. Where was your office on this diagram?</p>
<p style="text-align: right;">Page 46</p> <p>1 Q. All right. And what does the boring machine do? 2 A. It would bore four holes in the corner of them 3 Micore boards.</p> <p>4 Q. In terms of spending the most time on the shop 5 floor itself -- well, let me rephrase that question. Among 6 yourself, Mr. Sapko, and Mr. Housler, who would spend the 7 most time on the shop floor itself?</p> <p>8 A. (No response.)</p> <p>9 Q. Among those three individuals.</p> <p>10 A. (No response.)</p> <p>11 Q. I'm assuming it's you.</p> <p>12 A. I can't speak for them. I never worked for them. 13 But out of the three -- I can't speak for them. I work 14 second shift.</p> <p>15 Q. Okay. Mr. Sapko was your immediate supervisor, 16 though, was he not?</p> <p>17 A. Correct.</p> <p>18 Q. And in terms of being down on the floor when you 19 would be there -- well, how much of your day would you spend 20 on the floor? When I say "day", I mean your shift.</p> <p>21 A. (No response.)</p> <p>22 Q. Versus in your office.</p> <p>23 A. Oh, at least three-quarters of my shift I would be 24 on the floor, if not 90 -- I'd put 90 percent down, to be 25 safe, accurate.</p>	<p style="text-align: right;">Page 48</p> <p>1 A. It would be located right under the word UNICOR or 2 this thing right here (indicating). I'm not sure. It's 3 either right here in this block or right beside it.</p> <p>4 Q. Okay. Were you up on the mezzanine, or was your 5 office on the shop floor?</p> <p>6 A. The shop floor.</p> <p>7 Q. Okay. Whose offices were located in the UNICOR 8 business office mezzanine? And I assume by mezzanine, it's 9 up higher than the shop floor.</p> <p>10 A. You're speaking the second floor. That would be 11 the factory manager's office, quality assurance manager -- 12 quality assurance manager's office.</p> <p>13 Q. Who was that? Who was that at the time, between, 14 let's say, '01 and '04? Who was quality assurance manager?</p> <p>15 A. Mike Hayes.</p> <p>16 Q. Mike Hayes, okay.</p> <p>17 A. And the next office down would be the business 18 office. The next office down would have been the 19 superintendent's. That's going from left to right down as 20 you're looking at it.</p> <p>21 Q. And who was the superintendent at the time? Was 22 that Miss Forsyth?</p> <p>23 A. Correct.</p> <p>24 Q. The offices you just identified, did they have 25 windows that looked down onto the shop floor?</p>

12 (Pages 45 to 48)

<p style="text-align: right;">Page 49</p> <p>1 A. Correct.</p> <p>2 Q. This says Notes Area. What is that?</p> <p>3 A. (No response.)</p> <p>4 Q. It's the far right of Exhibit 2.</p> <p>5 A. That area was a new area that we took on. I will</p> <p>6 describe it to you as best I can. They worked with</p> <p>7 fiberboard in that area in reference to putting on a fabric.</p> <p>8 Q. Like a felt-type fabric or what's --</p> <p>9 A. Cloth-type fabric. And, again, that was done all</p> <p>10 on day shift.</p> <p>11 Q. Were there any cutting operations in that area;</p> <p>12 sawing or cutting Micore board?</p> <p>13 A. Not to -- no.</p> <p>14 Q. In the assembly area, which I understand is close</p> <p>15 or proximate to the special projects area, was Lokweld used</p> <p>16 to, you know, glue legs or anything else onto or into any of</p> <p>17 the furniture, or was the Lokweld simply used on the</p> <p>18 laminate board?</p> <p>19 A. Best of my knowledge, it was just used for</p> <p>20 laminate board in that area. Not that often.</p> <p>21 Q. How often?</p> <p>22 A. Not on a daily basis.</p> <p>23 Q. Every other day? Three times a week? Can you</p> <p>24 quantify it at all?</p> <p>25 A. (No response.)</p>	<p style="text-align: right;">Page 51</p> <p>1 there's a difference between particle board and Micore</p> <p>2 board.</p> <p>3 And my question is, what do you understand to be</p> <p>4 the difference between the two?</p> <p>5 A. Well, particle board is a hard, glued-type board,</p> <p>6 and Micore board is a softer, lighter board.</p> <p>7 Q. So they are composed of different materials?</p> <p>8 A. Correct.</p> <p>9 Q. Do you know any of the constituent parts of Micore</p> <p>10 board? Do you know what it's made of?</p> <p>11 A. No.</p> <p>12 Q. After OSHA came through the facility and issued</p> <p>13 its report, were there any meetings among the staff or the</p> <p>14 inmates to go over the results of OSHA's investigation?</p> <p>15 A. I don't recall of any.</p> <p>16 Q. If there were any, you were not involved, I take</p> <p>17 it?</p> <p>18 A. I don't recall.</p> <p>19 Q. Okay. Let me rephrase. If there were any, you</p> <p>20 don't remember them, sitting here today.</p> <p>21 A. Correct.</p> <p>22 Q. The only change you remember after OSHA came</p> <p>23 through was the addition of the Shop-Vac on -- what was it,</p> <p>24 a router?</p> <p>25 A. Correct.</p>
<p style="text-align: right;">Page 50</p> <p>1 (Discussion held off the record.)</p> <p>2 A. I don't know.</p> <p>3 Q. There is a reference above boring machine to a</p> <p>4 T.M. What does that stand for?</p> <p>5 A. Topmaster machine.</p> <p>6 Q. What is that used to do?</p> <p>7 A. That could shape particle board, but mainly we put</p> <p>8 a banding on the particle boards on that machine. An edge</p> <p>9 banding type banding.</p> <p>10 Q. Was that used at all on Micore board?</p> <p>11 A. No.</p> <p>12 Q. There is a reference there to S.A. Office. What</p> <p>13 is that?</p> <p>14 A. Our computer specialist's office.</p> <p>15 Q. Do you know what the S.A. stands for?</p> <p>16 A. System administrator, I believe.</p> <p>17 Q. Makes sense. What is the difference between</p> <p>18 particle board and Micore board?</p> <p>19 A. The difference? I don't understand your question.</p> <p>20 Q. You have referenced particle board a number of</p> <p>21 times in your deposition, and I have asked you follow-up</p> <p>22 questions. For example, you have identified machines where</p> <p>23 particle board was cut, sawed, mitered, routed. And I</p> <p>24 followed up and asked you whether Micore board was processed</p> <p>25 on the same machines, and you have said no. So, obviously,</p>	<p style="text-align: right;">Page 52</p> <p>1 (Discussion held off the record.)</p> <p>2 Q. Was there any difference in the jobs performed</p> <p>3 during the day at the shop versus during the night at the</p> <p>4 facility?</p> <p>5 A. There would be no difference, other than the fact</p> <p>6 I ran on a smaller scale with a smaller crew.</p> <p>7 Q. But the functions were basically the same?</p> <p>8 A. Except for the pin routers. They routed a cavity</p> <p>9 in them Micore boards, and I did not do that on night shift.</p> <p>10 Q. Otherwise, it was the same functions?</p> <p>11 A. That's correct.</p> <p>12 (Discussion held off the record.)</p> <p>13 (Recess held from 11:34 a.m. till 11:40 a.m.)</p> <p>14 Q. I want to ask you some additional questions about</p> <p>15 Exhibit 1. That was the -- do you have that there? It's</p> <p>16 right over here.</p> <p>17 MR. GOLDRING: That was the memo?</p> <p>18 MR. LANZILLO: Yes.</p> <p>19 Q. The first paragraph states, "On April 16, 2003, at</p> <p>20 7:30 p.m., I called Foreman Bevevino to my office to discuss</p> <p>21 some things. I started off by addressing Robin Bevevino</p> <p>22 with information about the MSDS book located in UNICOR. I</p> <p>23 told Mr. Bevevino that OSHA was here today, and he needed</p> <p>24 information from the book, and what he needed was not listed</p> <p>25 under the index, and it was apparently misplaced in the</p>



<p style="text-align: right;">Page 53</p> <p>1 book."</p> <p>2 First, the word "he" in that sentence, where it</p> <p>3 says, "He needed information and what he needed was not</p> <p>4 listed," the "he", I assume, is someone from OSHA?</p> <p>5 A. Correct.</p> <p>6 Q. All right. Do you remember that person's name?</p> <p>7 A. No, I do not.</p> <p>8 Q. What did the person from OSHA need that was not</p> <p>9 listed in the index and was apparently misplaced in the</p> <p>10 book?</p> <p>11 A. I was advised that they were looking for the MSDS</p> <p>12 sheet in that book on the Micore board, and, of course, it's</p> <p>13 indexed, A through Z.</p> <p>14 Q. Right.</p> <p>15 A. And they had trouble locating it. And they did</p> <p>16 locate it in the book someplace, but it took them a while</p> <p>17 finding it.</p> <p>18 Q. Okay. Am I correct that it wasn't listed in the</p> <p>19 index?</p> <p>20 A. No.</p> <p>21 Q. No, it was not listed, or, no --</p> <p>22 A. No, you're not correct. It was not in its proper</p> <p>23 place. Whether it was under M for Micore board.</p> <p>24 Q. I'm just trying to understand what you meant by</p> <p>25 the phrase, "What he needed was not listed under the index."</p>	<p style="text-align: right;">Page 55</p> <p>1 (Discussion held off the record.)</p> <p>2 MR. LANZILLO: Those are all the questions I have.</p> <p>3 Thank you, Mr. English.</p> <p>4 MR. GOLDRING: I just wanted to follow up on a</p> <p>5 couple of things.</p> <p>6</p> <p>7 CROSS-EXAMINATION</p> <p>8 BY MR. GOLDRING:</p> <p>9</p> <p>10 Q. Earlier you testified about the training you</p> <p>11 received. Did you attend annual refresher training with the</p> <p>12 Bureau of Prisons?</p> <p>13 A. Yes. Every year I do.</p> <p>14 Q. And as part of that annual refresher training, was</p> <p>15 a component provided regarding safety or occupational health</p> <p>16 or anything of that nature?</p> <p>17 A. There is always a segment at every annual</p> <p>18 refresher training on safety.</p> <p>19 Q. And you attended that segment every year?</p> <p>20 A. Correct.</p> <p>21 Q. And do you recall who provided that training?</p> <p>22 A. It would be either Mr. Housler or his associate.</p> <p>23 Q. Okay. I want to refer to what has been previously</p> <p>24 marked as Exhibit 2, which is this map. And you had</p> <p>25 previously testified that the two panel saws, the pin</p>
<p style="text-align: right;">Page 54</p> <p>1 What was not listed under the index?</p> <p>2 A. Meaning A through Z. Not the index at the</p> <p>3 beginning of the book. It was -- that's what I'm referring</p> <p>4 to there.</p> <p>5 Q. But what wasn't listed? Micore board?</p> <p>6 A. The Micore board sheet for -- in the MSDS book was</p> <p>7 not in its proper place, meaning A through Z, M for Micore</p> <p>8 board, under the listing of M's in the book.</p> <p>9 Q. Why were you addressing this concern to</p> <p>10 Mr. Bevevino regarding the MSDS book?</p> <p>11 A. I was advised, I believe, if I remember correctly,</p> <p>12 by Miss Forsyth, that they went to find -- OSHA and -- OSHA</p> <p>13 went to find the MSDS sheet in the book on Micore boards,</p> <p>14 and it was not where it was supposed to be. If I recall</p> <p>15 correctly, Mr. Bevevino was in that book the day before or</p> <p>16 the day before, and I did not imply that he misplaced it,</p> <p>17 because inmates had access at the book any day they want to</p> <p>18 look in the book also. I just wanted to make the point, if</p> <p>19 he was in the book, if he takes a page out, make sure he put</p> <p>20 it back where it belonged.</p> <p>21 Q. Do you have any reason to believe that</p> <p>22 Mr. Bevevino removed the MSDS sheet regarding Micore board</p> <p>23 from the MSDS book?</p> <p>24 A. I have no reason to believe he did. Or anybody</p> <p>25 else.</p>	<p style="text-align: right;">Page 56</p> <p>1 router, and the boring machines were the only machines used</p> <p>2 to process Micore board. Is that correct?</p> <p>3 A. Correct.</p> <p>4 Q. And let's just do this, if we can: If you can</p> <p>5 take this blue pen and just put an "M" next to any machine</p> <p>6 that was used for Micore board.</p> <p>7 A. (Witness complies.)</p> <p>8 Q. And were all of the machines that you just marked</p> <p>9 used on both the day shift and the night shift?</p> <p>10 A. Correct.</p> <p>11 Q. Okay. Now, I want to refer specifically to the</p> <p>12 inmates associated with this case. And you previously</p> <p>13 testified that, I believe, Siggers and Kelly were never</p> <p>14 assigned to the night shift. Is that correct?</p> <p>15 A. Correct.</p> <p>16 Q. So we're talking about Michael Hill, Kenny Hill,</p> <p>17 and Ward.</p> <p>18 A. Yeah.</p> <p>19 Q. Were any of those three inmates ever assigned to</p> <p>20 any of these machines that you marked with an "M"?</p> <p>21 A. No.</p> <p>22 Q. Were any of those three inmates ever assigned to</p> <p>23 the post form line where Lokweld was applied?</p> <p>24 A. No.</p> <p>25 Q. Were any of those inmates assigned to the special</p>

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1 area -- or special projects area where Lokweld was being  
 2 used?  
 3 A. No.  
 4 Q. Can you tell me, based on this map, what area or  
 5 areas those three inmates would have been assigned to.  
 6 A. The only area they were assigned to, to the best  
 7 of my knowledge, or their last working area, was right over  
 8 here in the packing department (indicating).  
 9 Q. Okay.  
 10 A. By this little table (indicating). This was the  
 11 table they worked on, which was a cleanup table, where they  
 12 just wiped boards down. And the area that basically they  
 13 would sit.  
 14 Q. So do these three circles in the packing  
 15 department represent the three inmates we are talking about?  
 16 A. Correct.  
 17 Q. If you could just circle that for me.  
 18 A. (Witness complies.)  
 19 Q. And this is the only area, to the best of your  
 20 recollection, that those inmates would have been assigned.  
 21 A. Yes.  
 22 Q. How far, to the best of your recollection,  
 23 approximately, would those inmates have been from the tools  
 24 that were cutting or routing the Micore board?  
 25 A. Approximately, they would be 77 foot away from the

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1 hose in the panel saw, 66 feet away from the Z-32 panel saw,  
 2 and 70 feet away from the pin router.  
 3 Q. Okay. And are those distances reflected on the  
 4 map?  
 5 A. (No response.)  
 6 Q. Are they accurately reflected on the notes on the  
 7 map?  
 8 A. Yes.  
 9 Q. Okay.  
 10 MR. LANZILLO: Just for clarification, to make  
 11 sure I'm clear, there's some handwritten numbers  
 12 there with lines drawn to the three dots. I  
 13 assume those are the distances to which you were  
 14 referring?  
 15 MR. GOLDRING: Yes. Yes.  
 16 Q. With respect to the respirators, you previously  
 17 indicated that you would expect anybody who was actually  
 18 operating a machine to be wearing a mask of some kind?  
 19 A. At their discretion they had a mask to use.  
 20 Q. And would you have provided them with a mask or  
 21 given them a mask at their discretion because of any  
 22 specific concern with respect to Micore board, or just  
 23 because of the cutting operation generally?  
 24 A. Cutting operation generally. And they were in the  
 25 tool room available at their request.

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1 Q. Did you have any specific concerns with respect to  
 2 Micore dust versus any other kind of dust that would have  
 3 been generated from a cutting operation?  
 4 A. No. To be honest with you, if I had a concern, I  
 5 would have been wearing a mask. Or my foremen.  
 6 Q. And did you wear a mask?  
 7 A. No. Never.  
 8 Q. Never in the entire time that you worked in  
 9 UNICOR, you never once wore a mask?  
 10 A. No.  
 11 Q. Just one second. (Pause.) Let me just ask you  
 12 about the sanitation in the factory. Every one of these  
 13 machines that operated -- or, excuse me, that was used on  
 14 the Micore board, did all of those machines have a  
 15 dust-collection system attached to it?  
 16 A. Yes. To the best of my knowledge.  
 17 Q. And did that dust-collection system -- to the best  
 18 of your knowledge, was it fully operational at all times?  
 19 A. Yes.  
 20 Q. Can you describe to me how the dust-collection  
 21 system worked.  
 22 A. The dust collections would come down to each  
 23 machine with a pipe, hose-type adaptor, and it had enough  
 24 suction to suck tools up that dust collection and out  
 25 through the system.

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1 Q. And so that -- that sucked the dust -- did it suck  
 2 the dust up off the table or down from the table?  
 3 A. Majority of it would be down through the table.  
 4 Q. And it sucked it to somewhere outside the factory.  
 5 A. Outside, yes.  
 6 Q. And with respect to the dust that was left over,  
 7 that wasn't sucked into the ventilation system, how much  
 8 dust would you describe that as being?  
 9 A. Very little percentage.  
 10 Q. Okay. And -- go ahead.  
 11 A. I was just going to say, for percentage, on a 1 to  
 12 10, 10 being the worst-case scenario of dust piled up, I'd  
 13 say what was left on any machine, in my professional  
 14 opinion, would be a 1, a 1.5, to a 10 being the worse.  
 15 Q. And you previously testified that that was then  
 16 cleaned using a Shop-Vac, a broom, or a hand sweeper.  
 17 Correct?  
 18 MR. LANZILLO: Objection to form.  
 19 MR. GOLDRING: Okay.  
 20 Q. What was then used to clean up the remainder of  
 21 the dust?  
 22 A. They could sweep it up with a broom and dust pan.  
 23 Q. Did you ever authorize an inmate to use a  
 24 pneumatic air hose to blow the dust off of a table?  
 25 A. No, I did not authorize it. And I believe I

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<p style="text-align: right;">Page 61</p> <p>1 stated that they were used, but it wasn't a regular daily</p> <p>2 basis. They were not authorized of all that stuff.</p> <p>3 Q. Did you ever observe them using a pneumatic air</p> <p>4 hose to blow dust?</p> <p>5 A. Absolutely.</p> <p>6 Q. If you observed an inmate using a pneumatic air</p> <p>7 hose to blow dust, what action would you have taken?</p> <p>8 MR. LANZILLO: Objection to form.</p> <p>9 Q. Would you have taken any action at that point?</p> <p>10 MR. LANZILLO: Same objection.</p> <p>11 MR. GOLDRING: Is it okay for him to answer?</p> <p>12 MR. LANZILLO: Sure.</p> <p>13 A. Yes, I'd take some action. If I saw them actually</p> <p>14 using the air hose on the machine, blowing it around, I'd go</p> <p>15 over and say, you aren't really supposed to be using an air</p> <p>16 hose; don't blow that -- sawdust or Micore dust, either</p> <p>17 dust -- to get it -- you know, I'd tell them, you know, wipe</p> <p>18 the machine up, sweep it up.</p> <p>19 Q. Okay. Putting aside the instance that is</p> <p>20 documented in the memo that is marked as Exhibit 2 [sic],</p> <p>21 did any staff members complain to you about any health --</p> <p>22 any health concerns as a result of their working in the</p> <p>23 factory?</p> <p>24 A. No. No.</p> <p>25 Q. Did any inmates ever come to you and complain</p>	<p style="text-align: right;">Page 63</p> <p>1 Myron Ward were all assigned to the packaging department.</p> <p>2 And I think you've indicated their location by three dots</p> <p>3 which are circled.</p> <p>4 A. (Witness nods head.)</p> <p>5 Q. Is that correct?</p> <p>6 A. Correct.</p> <p>7 Q. All right. Did those individuals ever operate any</p> <p>8 of the machinery upon which Micore board was processed?</p> <p>9 A. Not to my knowledge.</p> <p>10 Q. When things were slow in the packaging department,</p> <p>11 do you know whether they would go over and actually assist</p> <p>12 with the saws; either, you know, catching boards or</p> <p>13 operating the saw?</p> <p>14 A. That's possible, but not to my knowledge, that I</p> <p>15 can remember right now.</p> <p>16 (Discussion held off the record.)</p> <p>17 MR. LANZILLO: That's all.</p> <p>18 MR. GOLDRING: We'll waive.</p> <p>19</p> <p>20 (Deposition concluded at 11:56 a.m.)</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 62</p> <p>1 about any health concerns?</p> <p>2 A. No.</p> <p>3 Q. Were inmates told what to do if they had a health</p> <p>4 concern in the factory?</p> <p>5 A. Yes.</p> <p>6 Q. And to the best of your recollection, what were</p> <p>7 inmates told to do if they had a health concern as a result</p> <p>8 of their working in the factory?</p> <p>9 A. Part of our orientation is any safety violation</p> <p>10 that they saw or had a concern with, they were supposed to</p> <p>11 report it to their immediate supervisor, immediately upon</p> <p>12 any safety hazard or violation they felt.</p> <p>13 Q. And during the time that you were working in</p> <p>14 UNICOR, did any inmate for any reason, not just these</p> <p>15 reasons, but for any reason report a safety hazard either</p> <p>16 directly or indirectly to you?</p> <p>17 A. No.</p> <p>18 Q. No? Okay.</p> <p>19 MR. GOLDRING: That's all I have.</p> <p>20 MR. LANZILLO: Just one very brief follow-up.</p> <p>21</p> <p>22 REDIRECT EXAMINATION</p> <p>23 BY MR. LANZILLO:</p> <p>24</p> <p>25 Q. You indicated that Michael Hill, Kenny Hill, and</p>	

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<p><b>A</b></p> <p><b>about</b> 16:6,7 18:18 21:6 22:5,10 23:20 23:21 24:15 28:21 29:8,13,25 30:20,24 30:25 32:8 35:1 38:15 42:7 52:14,22 55:10 56:16 57:15 59:12 61:21 62:1 <b>above</b> 6:22 15:19 50:3 <b>Absolutely</b> 21:14 22:14 32:21 61:5 <b>access</b> 33:3,13 35:22 54:17 <b>according</b> 20:19 <b>accumulate</b> 22:1,11 <b>accurate</b> 34:12 46:25 <b>accurately</b> 58:6 <b>action</b> 61:7,9,13 <b>actions</b> 3:9 <b>actual</b> 7:17 23:8 <b>actually</b> 13:24 21:22 31:14 39:15 58:17 61:13 63:11 <b>adaptor</b> 59:23 <b>add</b> 6:23 <b>addition</b> 51:23 <b>additional</b> 7:22 42:7 52:14 <b>address</b> 4:11 <b>addresses</b> 14:7 <b>addressing</b> 52:21 54:9 <b>administrator</b> 50:16 <b>adopt</b> 25:6 <b>advised</b> 53:11 54:11 <b>affirmative</b> 3:25 <b>after</b> 8:7,13,18 9:5,6 10:7,20 12:25 20:5 24:5 28:20,24 29:5 29:20 30:12 36:16,20 37:4 51:12,22 <b>again</b> 11:19 15:13,15 18:14 49:9 <b>agents</b> 20:21 <b>ago</b> 3:8 5:9 20:4 <b>agree</b> 18:14 <b>ahead</b> 18:12 37:25 60:10 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